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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,693

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Klaus Heber

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EXAMINER

PANG, ROGER L

ART UNIT

PAPER NUMBER

3655

MAIL DATE

DELIVERY MODE

10/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,693	Applicant(s) HEBER ET AL.	
	Examiner Roger L. Pang	Art Unit 3655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9-19-05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The following action is in response to application 11/549,693 filed on July 26, 2006.

Information Disclosure Statement

The information disclosure statement filed 9-19-05 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12, and 14-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 12, on line 14, the word “engine” should be replaced with --energy-- in order to make a correct reference to the previously claimed limitation of “an energy quantity” on lines 11-12.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Steinel '342. Steinel teaches a method for operating the drive train of a motor vehicle which has an engine 1, a transmission 7 and a friction clutch 3 arranged between the engine and transmission, a control device 39 monitoring a state of the friction clutch and reducing an output torque of the engine to a torque desired value on the basis of a monitoring result, and the torque desired value being determined by a reduction value being subtracted from a current torque of the engine (Col. 5), characterized in that, after the reduction in the output torque of the engine has taken place, the state of the friction clutch continues to be monitored, and the torque desired value is reduced once again by a reduction value on the basis of the monitoring result (Col. 5).

Claims 12-15, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Brandt '182. With regard to claim 12, Brandt teaches a method for operating the drive train of a motor vehicle which has an engine, a transmission and a friction clutch arranged between the engine and transmission (Col. 1), a control device monitoring a state of the friction clutch and reducing an output torque of the engine on the basis of a monitoring result, characterized in that the control device, with the friction clutch slipping S2, determines an energy quantity dissipated in the friction clutch and/or a temperature TSK of the friction clutch, compares the

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engine quantity and/or the temperature with limit values (Fig. 2; Col. 9), and reduces the output torque of the engine in the event of the overshooting of one or of both limit values (Col. 9). With regard to claim 13, Brandt teaches a method for operating the drive train of a motor vehicle which has an engine, a transmission and a friction clutch arranged between the engine and transmission (Col. 1), a control device monitoring a state of the friction clutch and reducing an output torque of the engine to a torque desired value on the basis of a monitoring result, and the torque desired value being determined by a reduction value being subtracted from a current torque of the engine (Col. 9), characterized in that, after the reduction in the output torque of the engine has taken place, the state of the friction clutch continues to be monitored, and the torque desired value is reduced once again by a reduction value on the basis of the monitoring result (Col. 9). With regard to claim 14, Brandt teaches the method, characterized in that the control device determines a torque desired value by subtracting a reduction value from a current torque of the engine, the torque desired value is set on the engine, and, after the reduction in the output torque of the engine has taken place, the state of the friction clutch continues to be monitored, and the torque desired value is reduced once again by a reduction value on the basis of the monitoring result (Col. 9). With regard to claim 15, Brandt teaches the method, characterized in that said limit values are dependent on operating variables (Col. 9) of the motor vehicle and/or instructions of a vehicle driver and/or environmental variables. With regard to claim 20, Brand teaches the method, characterized in that the control device determines at least one further torque desired value, the minimum of the torque desired values is determined, and the determined minimum is set on the engine (Col. 9). With regard to claim 21, Brandt teaches the method, characterized in that, as soon as the slip of the friction clutch is lowered, the torque desired value

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is increased in steps (Fig. 1). With regard to claim 22, Brandt teaches the method, characterized in that the friction clutch is designed as an automated friction clutch, and during a starting operation, the friction clutch is closed simultaneously with a reduction in the output torque of the engine (Col. 1).

Allowable Subject Matter

Claims 16-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Frotscher, Rieger, Werner, and Senger have been cited to show similar clutch and engine controls.

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. The central facsimile number is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but

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charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on _____ (Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roger L. Pang whose telephone number is 571-272-7096. The examiner can normally be reached on 5:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roger L Pang/
Primary Examiner, Art Unit 3655

Roger L Pang
Primary Examiner
Art Unit 3655

October 9, 2008